THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.17340 OF 2006

Dated: 22nd AUGUST, 2006.

Between :

Y. Sudhakar .. Petitioner

And

1. The Recovery Officer, Debts Recovery Tribunal, and another. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.17340 OF 2006

O R D E R :

I have heard the learned Counsel for the petitioner and perused the material on record.

The material on record shows that the 1st respondent Bank filed O.A.No.149 of 2001 in the Debts Recovery Tribunal, Hyderabad for recovery of the amounts allegedly due out of the loan availed by the petitioner. Admittedly, an ex parte decree was passed on 1-9-2005. It is stated that the petitioner filed an application to set aside the ex parte decree along with I.A.No.941 of 2005 to condone the delay in seeking to set aside the ex parte decree. The said application, which was filed on 11-11-2005, was dismissed for default on 22-11-2005. Then the petitioner filed M.A.No.243 of 2005 for restoration of I.A.No.941 of 2005.

The petitioner pleads that the said application has not yet been taken up since the Tribunal at Hyderabad is not functioning for want of Presiding Officer. It is stated that the In-charge Presiding Officer is not taking up the matters regularly and in the meanwhile, the 1st respondent issued a sale notice dated 30-6-2006 proposing to sell the mortgaged properties. Admittedly, the sale notice dated 30-6-2006 was published in the local dailies on 7-7-2006 proposing to conduct sale on 24-8-2006. However, the petitioner states that he came to know about the same only on 16-8-2006, and this writ petition has been filed on 21-8-2006 seeking stay of sale on the ground of

pendency of his applications in the Tribunal.

Having heard the learned Counsel for the petitioner and keeping in view the fact that O.A.149 of 2001 is pending from the year 2001 and even the application - M.A.No.243 of 2005 said to have been filed by the petitioner for restoration of I.A.No.941 of 2005 is pending from November, 2005, I am unable to find fault with the respondents in initiating sale proceedings on the basis of the decree dated 1-9-2005. Hence, the interference by this Court at this stage is not warranted.

Accordingly, the Writ Petition is dismissed. No costs.

However, this shall not preclude the 1st respondent to consider the request, if any made by the petitioner to withhold the sale proceedings so as to enable him to pursue the applications pending before the Tribunal.

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G. ROHINI, J.

Dt. 22-8-2006
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